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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 MICHAEL ALLAN MILLER II,

12 Plaintiff,

13 v.

14 ELLA MARIJA LANI YELICH-
15 O'CONNOR (a.k.a. Lorde),

16 Defendant.
17

Case No. CV 17-2037-GW(AFMx)

**ORDER DENYING REQUEST TO
PROCEED IN FORMA PAUPERIS**

18
19 Plaintiff Michael Allan Miller II, has submitted a Request to Proceed
20 Without Prepayment of Filing Fees. Under 28 U.S.C. § 1915, the Court is denying
21 that request on the grounds that the current Complaint — which alleges that
22 defendant has stalked him by writing and releasing a popular song whose lyrics
23 supposedly relate to plaintiff — has no arguable substance in law or fact and is
24 without merit.

25 The Complaint alleges that defendant Ella Marija Lani Yelich-O'Connor
26 (popularly known as Lorde) has severely limited plaintiff's "interactions with
27 multiple aspects of society" by "writing and releasing a stalking song 'Team' on the
28 13th of September, 2013, insinuating death if I discuss the circumstances of this

1 situation.” (Complaint, Statement of Claim; ECF No. 1 at 6.)¹ The Complaint
 2 further alleges that this is a violation of a federal criminal stalking statute 18 U.S.C.
 3 §2261A and seeks \$100 million in damages. (*Id.*) The Complaint then goes on to
 4 make various other allegations based on attached exhibits, which mention a number
 5 of people including Elena Cohen, Taylor Swift, Lorde, and Lorde’s manager and
 6 which refer to what may be prior criminal proceedings involving plaintiff, as well
 7 as plaintiff’s incarceration from 2012 to 2014. (ECF No. 1 at 7-8.) Plaintiff further
 8 states that he requests a tolling of the statute of limitations against “Lorde’s
 9 infractions” and indicates a possible claim against CEOs of two record companies.
 10 (ECF No. 1 at 7.)²

11 ““A district court may deny leave to proceed *in forma pauperis* at the outset
 12 if it appears from the face of the proposed complaint that the action is frivolous or
 13 without merit.”” *Minetti v. Port of Seattle*, 152 F.3d 1113, 1115 (9th Cir. 1998),
 14 quoting *Tripati v. First Nat’l Bank & Trust*, 821 F.2d 1368, 1370 (9th Cir. 1987).
 15 “An *in forma pauperis* complaint is frivolous if ‘it had no arguable substance in law
 16 or tort.’” *Tripati*, 821 F.2d at 1370. When a plaintiff appears *pro se* in a civil rights
 17 case, the court must construe the pleadings liberally and afford the plaintiff the
 18 benefit of any doubt. *Karim-Panihi v. Los Angeles Police Dept.*, 839 F.2d 621, 623
 19 (9th Cir. 1988). In giving liberal interpretation to a *pro se* complaint, the court may
 20 not, however, supply essential elements of a claim. *Ivey v. Bd. of Regents of Univ.*
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22 ¹ The Court references the electronic version of the Complaint because the
 23 document plaintiff filed does not have consecutive page numbers.

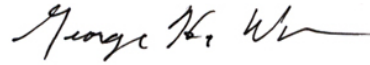
24 ² The Complaint refers to proceedings in “Arizona district court.” (ECF No. 1
 25 at 7.) A review of the docket of the District of Arizona has identified a similar
 26 action by plaintiff against the defendant that was dismissed without prejudice for
 27 failure to state a claim upon which relief may be granted. See *Michael A. Miller, II*
 28 *v. Taylor Swift and Ella Marija Lani Yelich-O’Connor*, 4:16-cv-00650-RM
 (D. Ariz).

1 of Alaska, 673 F.2d 266, 268 (9th Cir. 1982). The Supreme Court has held that, “a
2 plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief” requires
3 more than labels and conclusions, and a formulaic recitation of the elements of a
4 cause of action will not do. . . . Factual allegations must be enough to raise a right
5 to relief above the speculative level” *Bell Atlantic Corp. v. Twombly*, 550 U.S.
6 544, 555 (2007) (internal citations omitted, alteration in original); *see also Ashcroft*
7 *v. Iqbal*, 556 U.S. 662, 678 (2009) (To avoid dismissal for failure to state a claim,
8 “a complaint must contain sufficient factual matter, accepted as true, to ‘state a
9 claim to relief that is plausible on its face.’ . . . A claim has facial plausibility when
10 the plaintiff pleads factual content that allows the court to draw the reasonable
11 inference that the defendant is liable for the misconduct alleged.” (internal citation
12 omitted)); *Starr v. Baca*, 652 F.3d 1202, 1216 (9th Cir. 2011) (“the factual
13 allegations that are taken as true must plausibly suggest an entitlement to relief,
14 such that it is not unfair to require the opposing party to be subjected to the expense
15 of discovery and continued litigation”).

16 After review of the Complaint and its attachments, the Court concludes that
17 the Complaint lacks arguable substance in law or fact. It is apparently plaintiff’s
18 theory that defendant wrote and released the song “Team” with lyrics that allegedly
19 refer to plaintiff – supposedly in a threatening way. These allegations do not
20 plausibly allege “stalking” as plaintiff asserts. Nothing in the lyrics plausibly
21 suggests a threat against plaintiff or would reasonably cause plaintiff to fear for his
22 safety. Moreover, the statute cited by plaintiff (18 U.S.C. § 2261A) is a criminal
23 statute that does not give plaintiff the right to pursue a civil action. While there is a
24 state statute in California that creates an actionable tort of stalking (Cal. Civil Code
25 § 1708.7), the Complaint does not plausibly allege facts that could establish the
26 elements of that tort, including (among other elements) a pattern of conduct by
27 defendant the intent of which was to follow, alarm or harass plaintiff and a
28 reasonable fear by plaintiff for his safety.

1 Accordingly, the Court finds that the Complaint lacks an arguable basis in
2 law or fact and is without merit. IT THEREFORE IS ORDERED that Plaintiff's
3 Request to Proceed Without Payment of Filing Fees is DENIED.

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5 DATED: March 22, 2017

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8 GEORGE H. WU
9 UNITED STATES DISTRICT JUDGE
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